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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,491	01/09/2002	Hidehei Kageyama	No. 50	2851

7590 08/05/2004

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EXAMINER

PRUNNER, KATHLEEN J

ART UNIT PAPER NUMBER

3751

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,491

Applicant(s)

KAGEYAMA ET AL. 

Examiner

Kathleen J. Prunner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,10,15-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7, 10, 15-17 and 19-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>042704</u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6, 7, 10, 15-17 and 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi in view of Kanari et al. Noguchi discloses a mechanical pencil having the claimed features including a barrel 1 (note Figs. 4 and 15), a lead feeding mechanism disposed in the barrel to tighten and feed a lead (note lines 3-17 in col. 5), and a single-piece (note lines 22-25 in col. 4) lead holder (constituted by slider 9) disposed between the lead feeding mechanism and a tip end of the barrel 1 (note Figs. 4 and 15), the single-piece lead holder 9 having a through hole or bore 9d through which the lead penetrates and comprises holding portions 9g for holding the lead (note lines 34-35 in col. 4), a contact portion 9c for contacting an inner peripheral surface of the barrel 1 (note lines 47-51 in col. 4), and a body 9b, the holding portions 9g include a first holding portion at a front portion of the lead holder 9 (note Figs. 5 and 8), wherein the contact portion comprises an outside cylinder (constituted by sliding part 9c) provided concentrically on an outside of the body 9b (note Figs. 6, 7 and 9), wherein the outside cylinder 9c comprises a rib (constituted by protrusions 9h) projecting in an outside diameter direction (note Fig. 8) to come into contact with the inner peripheral surface of the barrel 1 (note lines 44-51 in col. 4), and wherein a slit (constituted by one of the spaces between adjacent portions of the outside cylinder 9c, note Fig. 9) is formed in a portion of the outside cylinder 9c in which the rib 9h of the outside cylinder 9c is absent so that the rib 9h is elastically displaceable (note lines 42-44 in col. 4) radially outwardly into contact with the inner peripheral surface of the barrel 1 (note lines 44-51 in col. 4). Noguchi also discloses that the lead holder 9

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can have holding portions at either the front of the lead holder or at the rear of the lead holder (note lines 27-31 in col. 6). Although Noguchi fails to disclose that the lead holder 9 has holding portions at both the front and rear portions of the lead holder, attention is directed to Kanari et al. who disclose another mechanical pencil having a lead holder 36 provided with holding portions 52 (note Fig. 3) at both the front and rear portions of the lead holder in order to contact and frictionally hold the lead 22 (note lines 48-51 in col. 4) especially when the remaining, i.e., in use, lead 22a is shortened and abuts the following, i.e., new, lead 22b while the remaining lead 22a protrudes and abuts the writing surface (note lines 13-16 in col. 5). It would have been obvious to one of ordinary skill in the mechanical pencil art, at the time the invention was made, to form the holding portions 9g of Noguchi at both the front and rear portions of the lead holder in view of the teachings of Kanari et al. in order to simultaneously and firmly contact and frictionally hold both the lead being used for writing and the new following lead especially when the lead in use is shortened and abuts the new following lead. With respect to claims 6 and 15, Noguchi also discloses that at least one of the holding portions 9g comprises at least one blade that projects in an inside diameter direction in a front end of the body 9b to come into contact with the lead (note Fig. 8). With respect to claims 7 and 16, Noguchi further discloses that at least one of the holding portions 9g comprises at least one blade that projects in an inside diameter direction in a rear end part of the body 9b to come into contact with the lead (note Fig. 13). With regard to claim 17, Noguchi additionally discloses that the slit is formed in a portion in which the rib 9h is absent at the rear end part of the body 9b (note Figs. 8 and 9). With regard to claim 19, Noguchi also discloses that the holding portions 9g comprise a blade and rib which come into contact with the lead passing through the through hole or bore 9d (note lines 34-39 in col. 4 and Figs. 5-7). With respect to claim 20, Noguchi further discloses that the blade is in a front end part of the body 9b (note Fig. 5) and the rib is in a rear end part of the body 9b (note Fig. 13). With regard to claims 22-24, the slits disclosed by Noguchi inherently obtain a stable holding force on the lead (note lines 24-28 in col. 4). With regard to claim 25, Noguchi additionally discloses that the holder 9 is axially slidable within the barrel 1 (note lines 18-19 in

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col. 4) and that the contact portion 9c maintains frictional contact with the inner peripheral surface of the barrel 1 throughout the axially slidable extent (note lines 47-51 in col. 4 and Fig. 4). With respect to claim 29, Noguchi also discloses that the body 9b is cylindrical in configuration (note Fig. 7).

Response to Arguments

3. Applicant's arguments filed June 8, 2004 have been fully considered but they are not deemed persuasive.
4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kathleen J. Prunner whose telephone number is 703-306-9044.

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7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kathleen J. Prunner

July 30, 2004


Gene Mancene
Supervisory Patent Examiner
Group 3700